

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

IN RE:

PMC MARKETING, CORP.

Debtor

PMC MARKETING, CORP.

REPRESENTED BY ITS CHAPTER 7 TRUSTEE

Plaintiff,

v.

GLAXO SMITH KLINE PUERTO RICO, INC.

Defendants.

Case No. 09-02048 (BKT)

Chapter 7

Civil Case. No.: 12-0110 (BKT)

Re: Turnover of Preferential
Transfers pursuant to §547.

**RESPONSE TO “MOTION TO STRIKE PARAGRAPH 4 OF PLAINTIFF’S
“UNSWORN DECLARATION UNDER PENALTY OF PERJURY IN SUPPORT
OF MOTION FOR SUMMARY JUDGMENT”, EXHIBIT C DKT. NO. 40”**

TO THE HONORABLE COURT:

By counsel, the duly appointed and acting Chapter 7 trustee of the bankruptcy estate of PMC MARKETING, CORP., Noreen Wiscovitch-Rentas, most respectfully states and prays:

1. Plaintiff included an Unsworn Declaration by Noreen Wiscovitch Rentas in support of its Motion for Summary Judgment. *See Dkt. 40 – Exhibit C.*
2. Defendant filed a Motion to strike certain parts of the declaration for different reasons. We will address the same separately.

Request that Statement in Paragraph 4 be Stricken

3. Defendant alleges that the statement in Paragraph 4 of the unsworn declaration is insufficient to meet the standards for a motion for summary judgment. We

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respectfully disagree.

4. In first instance, the Bankruptcy Appellate Panel recently held that a nearly identical Motion for Summary Judgment, which was supported by a nearly identical Unsworn Declaration was meritorious. Wiscovitch-Rentas v. Villa Blanca VB Plaza LLC (In re PMC Mktg. Corp.), 2016 Bankr. LEXIS 174. See also, Wiscovitch-Rentas v. Santa Rosa Mall, LLC (In re PMC Mktg. Corp.), 2016 Bankr. LEXIS 175.

5. This could conceivably change because of recovery in some other cases, which has not happened yet or if the claims are substantially reduced (which although possible is not probable).

6. Under the circumstances the statement is sufficient for the purposes of the Motion for Summary Judgment. At this time there are simply not sufficient funds to allow the Defendant to receive more than it would under a distribution.

Allegation that the Declaration is “Bogus”

7. Defendant then alleges that the Declaration should be somehow disregarded because it is “suspect, if not altogether bogus.” *Dkt. 47, p. 3*. In support of this statement, Defendant alleges that Plaintiff did not file a motion for summary judgment in 2013 (the date of the declaration) and that the Trustee is a resident of West Palm Beach while the mailing address is in Puerto Rico. *Id.*

8. First of all, the Trustee is officially a resident of West Palm Beach Florida, but her office address is in Puerto Rico. This is simply the truth and in no way invalidates the Declaration or its contents.

9. The reason for the date on the declaration is simple. There are numerous adversary cases filed under the PMC Marketing bankruptcy case. The Trustee worked

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with her counsel to draft the declarations in all the contested cases in 2013 in anticipation of the filing of summary judgments in most if not all of the cases. This was one of those cases.

10. Since the circumstances have not changed, there is no reason to update the declaration.

WHEREFORE, it is hereby respectfully requested that an Order be DENYING Defendant's Motion to strike and enter a Judgment in its favor for \$59,454.12 plus fees and costs.

CERTIFICATE OF SERVICE: I hereby certify that on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to parties in interest and to Rafael Perez Bach at rp@mcvpr.com.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, on January 28, 2016.

/s/ Rafael A. González Valiente

USDC No. 225209

Counsel for the Chapter 7 Trustee

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